

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 7 September 2018

**Public Authority:** London Borough of Wandsworth

**Address:** The Town Hall  
Wandsworth High Street  
London  
SW18 2PU

#### **Decision (including any steps ordered)**

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1. The complainant requested information regarding a market rate evaluation on some allotments.
2. The Commissioner's decision is that the London Borough of Wandsworth ("the London Borough") failed to respond to the request within 20 working days and has therefore breached Section 10 of the FOIA.
3. The Commissioner requires the London Borough to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, under the FOIA, to the request.
4. The London Borough must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

## Request and response

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5. On 27 March 2018, the complainant wrote to the London Borough and requested information in the following terms:

*"I write to make the following requests under the Freedom of Information Act.*

- 1. Please provide a copy of your complete records of instructions or requests to [Lambert Smith Hampton] that led to the above report, including letters, emails, notes of telephone conversations, documents sent, any discussion of the fee basis and any invoice rendered*
  - 2. In his email of 26 May to [name redacted], [Council officer] wrote: "LSH has now reported to the Council that it now accepts that a peppercorn rent would be appropriate in this particular situation." Please provide a copy of all records you have of that report in whatever form it takes, such as notes of a conversation or a report in written format. Please also provide copy of your complete records of instructions or requests to LSH that led to this report, including letters, emails, notes of telephone conversations, documents sent and any discussion of the fee basis and any invoice rendered.*
  - 3. Please also provide a copy of the underlying agreement between LSH and Wandsworth under which this work was carried out, including any information as to fees to be charged for different types of work."*
6. The London Borough acknowledged the request on 29 March 2018 but had failed to provide a substantive response by the date of this notice.

## Scope of the case

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7. The complainant contacted the Commissioner on 11 July 2018 to complain about the failure, by the London Borough, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the London Borough on 30 July 2018 to highlight the outstanding response. She requested that the London Borough respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.

9. In view of the fact that the response to this request remains outstanding, the Commissioner considers that a decision notice is appropriate in this case.
10. The scope of this notice and the following analysis is to consider whether the London Borough has complied with Section 10 of the FOIA.

### **Reasons for decision**

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11. Section 1(1) of the FOIA states that:

*Any person making a request for information to a public authority is entitled –*

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

12. Section 8(1) of the FOIA states:

*In this Act any reference to a "request for information" is a reference to such a request which –*

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
14. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the London Borough has breached Section 10 of the FOIA.

## Right of appeal

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16. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

17. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
18. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**